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AZ CORP COMMISSION
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Arizona Corporation Commission

DOCKETED

JUN 19 2008

Attorneys for Intervenor IBEW Local 1116

BEFORE THE ARIZONA
CORPORATION COMMISSION

DOCKETED BY

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IN THE MATTER OF THE
APPLICATION FOR TUCSON
ELECTRIC POWER COMPANY FOR
THE ESTABLISHMENT OF JUST
AND REASONABLE RATES AND
CHANGES DESIGNED TO REALIZE
A REASONABLE RATE OF RETURN
ON THE FAIR VALUE OF ITS
OPERATIONS THROUGHOUT THE
STATE OF ARIZONA

Docket No. E-01933A-07-0402

IN THE MATTER OF THE FILING
BY TUCSON ELECTRIC POWER
COMPANY TO AMEND DECISION
NO. 62013


Docket No. E-01933A-05-0650

NOTICE OF FILING DIRECT TESTIMONY OF FRANK GRIJALVA
IN SUPPORT OF THE PROPOSED SETTLEMENT AGREEMENT

Pursuant to the Administrative Law Judge's Procedural
Order (p. 2) dated May 12, 2008, Local Union 1116,
International Brotherhood of Electrical Workers, AFL-CIO,
CLC ("IBEW Local 1116"), by and through undersigned counsel,
hereby provides notice of its filing of the attached Direct
Testimony of Frank Grijalva in this docket.

1 RESPECTFULLY SUBMITTED this 19th day of June, 2008.

2 LUBIN & ENOCH, P.C.

3 
4

5 Nicholas J. Enoch, Esq.

6 Attorney for Intervenor IBEW Local 1116

7 ORIGINAL and thirteen (13) copies
8 of IBEW Local 1116's Notice filed
9 this 19th day of June, 2008, with:

10 Arizona Corporation Commission
11 Docket Control Center
12 1200 West Washington Street
13 Phoenix, Arizona 85007-2996

14 Copies of the foregoing transmitted
15 electronically/mailed this
16 same date to:

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18 Hearing Division
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F:\Law Offices\client directory\IBEW L. 1116\014\Pleadings\2008-06-19 Nts of Filing Dir Testimony of F Orijalva.wpd

1 Q1. PLEASE STATE YOUR NAME.

2 A1. Frank Grijalva.

3 Q2. ARE YOU THE SAME FRANK GRIJALVA WHOSE DIRECT TESTIMONY WAS
4 FILED IN THIS MATTER ON FEBRUARY 29, 2008?

5 A2. Yes.

6 Q3. DOES INTERVENOR LOCAL UNION 1116, INTERNATIONAL BROTHERHOOD
7 OF ELECTRICAL WORKERS, AFL-CIO, CLC ("IBEW Local 1116")
8 SUPPORT THE ADOPTION OF THE MAY 29, 2008 SETTLEMENT
9 AGREEMENT.

10 A3. Yes. On behalf of the approximately six-hundred and
11 seventy-five (675) non-managerial workers at the Tucson
12 Electric Power Company ("TEP") who are represented by IBEW
13 Local 1116, I would like to express the Union's unqualified
14 support for the proposed Settlement Agreement.

15 Q4. ARE THERE SPECIFIC PORTIONS OF THE SETTLEMENT AGREEMENT THAT
16 IBEW LOCAL 1116 IS PARTICULARLY INTERESTED IN?

17 A4. Yes. While IBEW Local 1116 supports the adoption of
18 proposed Settlement Agreement in its entirety, IBEW Local
19 1116 took a particularly active role in negotiating and/or
20 otherwise considering the following specific paragraphs of
21 the proposed Settlement Agreement: ¶¶ 1.14(ii) and 2.2.

22 Q5. PLEASE EXPLAIN WHY IBEW LOCAL 1116 IS PARTICULARLY
23 INTERESTED IN ¶ 1.14(ii).

24 A5. Paragraph 1.14(ii) simply acknowledges the fact that Article
25 XV, § 3 of the Arizona Constitution places the interests of
26 public service employees on par with those of patrons. The
27 interests of both constituencies, in turn, are of more
28 importance than those of the corporation's shareholders.

1 Q6. ARE YOU AWARE OF ANY LEGAL AUTHORITY SUPPORTING THIS
2 PROPOSITION?

3 A6. Certainly. In its 1984 decision in *Cogent Pub. Serv. v.*
4 *Arizona Corp. Comm'n*, 142 Ariz. 52, 56-57, 688 P.2d 698,
5 702-03, Division One expressly, and my opinion correctly,
6 held that "the jurisprudence of our State made it plain long
7 ago that the interests of public-service corporation
8 stockholders must not be permitted to overshadow those of
9 the public served." In support of this quite unremarkable
10 proposition, our Court of Appeals relied upon a series of
11 U.S. and Arizona Supreme Court decisions dating back to
12 1896.¹ Beyond that, I would also point out that Article XV,
13 § 3 of the Arizona Constitution does not mention
14 shareholders.

15 Q7. PLEASE EXPLAIN WHY IBEW LOCAL 1116 IS PARTICULARLY
16 INTERESTED IN ¶ 2.2.

17 A7. For the reasons set forth in my previous testimony, the
18 750,000-member International Brotherhood of Electrical
19 Workers strongly opposes any regulatory move toward, and
20 thus supports any retreat from, a so-called "competitive
21 retail market". In my opinion, this Commission made a
22 serious mistake back in 1996 when it created, and later
23 revised, the Retail Electric Competition Rules. Division
24

25 ¹ See *Salt River Valley Canal Co. v. Nelssen*, 10 Ariz. 9,
26 13, 85 P. 117, 119 (1906) [citing *Covington & Lexington Turnpike*
27 *Road Co. v. Sanford*, 164 U.S. 578, 596, 17 S.Ct. 198, 205, 41
L.Ed.560, 566 (1896)].

1 One's 2004 decision in *Phelps Dodge Corp. v. Ariz. Elec.*
2 *Power Coop., Inc.*, 207 Ariz. 95, 83 P.3d 573, rectified the
3 serious legal problems associated the Retail Electric
4 Competition Rules. In much the same way, I firmly believe
5 that the adoption of the instant Settlement Agreement is a
6 wise and correct step for this Commission to transition back
7 to the time-tested notion that rates ought to be premised
8 upon a thoroughly prepared cost-of-service analysis and not
9 on some seriously flawed notion that a competitive retail
10 market does, or ever will, exist in Arizona. While Adam
11 Smith's "invisible hand," in which market transactions take
12 place, and supply, demand, price and allocation of goods and
13 services are determined, as buyers and sellers haggle over
14 commodities in a competitive market, may be a worthwhile
15 topic for discussion in a first-year economics class in
16 college, it simply does not provide a viable way to provide
17 electric service to millions of Arizonans. For better or
18 worse, some industries, such as public utilities, are so
19 structured that only a small number of firms or only one
20 firm may enter a market. Entry costs are high and viable
21 alternatives are not available. The instant Settlement
22 Agreement recognizes the fact that the underlying ideology
23 of government regulation is to correct inequities in markets
24 in response to the reality that markets do not always run
25 smoothly.

26 **Q8. ARE THERE ANY PORTIONS OF THE PROPOSED SETTLEMENT AGREEMENT**
27 **THAT IBEW LOCAL 1116 IS LESS PLEASED WITH.**

1 A8. Sure. For example, IBEW Local 1116 would have preferred
2 that the important matters addressed in ¶ 12.1 had been
3 tackled in the instant proceeding instead of some yet-to-be
4 filed generic docket. Similarly, IBEW Local 1116 would have
5 preferred that TEP receive even more - potentially far more
6 - rate relief than what is set forth in herein.

7 Notwithstanding these reservations, however, IBEW Local 1116
8 recognizes that the consummation of a comprehensive
9 Settlement Agreement amongst nine (9) different parties with
10 often times disparate and competing interests is no small
11 feat. It is for that reason that IBEW Local 1116 fully and
12 strongly supports the Commission's adoption of the proposed
13 Settlement Agreement in toto.

14 Q9. DO YOU HAVE ANY OTHER COMMENTS YOU WOULD LIKE TO SHARE WITH
15 THE COMMISSION REGARDING THE INSTANT SETTLEMENT?

16 A9. Yes. I want to make it abundantly clear to the Commission
17 and TEP that, by agreeing to this Settlement Agreement, IBEW
18 Local 1116 has not, and does not, agree to any modification,
19 express or implied, to the terms and conditions of its
20 collective bargaining agreement with TEP. That is not to
21 say that I believe this will ever become a problem vis-à-vis
22 IBEW Local 1116's relationship with TEP; in fact, I do not
23 believe that is the case. Nevertheless, I just want to make
24 certain that there is no confusion in this regard moving
25 forward.

26 Q10. DOES THIS CONCLUDE YOUR TESTIMONY?

27 A10. Yes.